Dear Gisni (and Henry, via carbon),

4/22/83

Jim told me of your call. There are two separate questions. There never was - or even could have been - any determination by the Attorney General that disclosure of the spectrographic records was not in the ~~public~~ national interest. John Mitchell then was Attorney General. Earlier, under Ramsey Clark -long before I filed suit - the DJ wanted the FBI to disclose its spectro records to me. Here are the actual stories.

When the administrative practi e act was amended for FOIA, the legislative history is quite specific in stating that the executive agencies could no longer withhold information on the claim that disclosure was not in the "national interest." An assistant United States Attorney made this up in arguing the first case before Judge Sirica. Burl Fenstermald then represented me. Sirica went for it. Later, Jim pushed for a response to his request for a copy of this alleged determination. He then learned that it did not exist and that it had never happened.

Back in early 1967, when Ramsey Clark was on Face the Nation, he made some factual errors about withholding and I wrote him, using my spectro request as an example. That time it got the right attention, of those around him and his. They tried to find the request but they never asked the FBI so they never found it. But they did check with the Archives, which supported what I had said and said also that I was not the only one seeking that info. The DJ's Office of General Counsel was involved, and they decided that the info ought be disclosed. I have all the pertinent records and those of greater pertinance are in the case record in the spectro lawsuit. Like almost everything in it, undenied.

How I got the records is a bit unusual. Years late the Navy was triggered into compliance that involved the DJ Criminal Division. So, I got the Criminal Division's supposed JFK assassination files - several file drawers of them. In them I found what I report above. If my recollection is correct, a lawyer named Salochin also warned about the possibility of my establishing a precent they would not want if the FBI forced me to litigation. (Boy did that happen!!)The position of DJ lawyers, between DJ and FBI, was that the decision would be policy, not law, and that they would follow policy.

The records are in DJ 129-11 file when you are next here. Jim may come across the copies I made for the litigation if he reviews that file in the near future. I did not make copies for subject filing I suppose because the lawsuit file is the one that must be checked by anyone of serious and detailed interest and it is all there.

Jim's confusion about a Hoch request probably comes from the fact that Salochin's 1972 memo refers to both of us, beginning with a different Hoch appeal, as I recall it. But the decision that there should be disclosure was in 1967 and by the Office of Legal Counsel, to Clark.

I am certain that I got those DJ records after the last remand, so that narrows searching in the affidavits quite ak bit.

Pending Jim decision, which is not possible until he learns if he has been granted an extension of time, I'm still not reading the decision. But I doubt there is any reference to those records in it. If he does not petition for an en banc rehearing, I may just dictate comments and analysis an file the tapes for history. It has to be an incredible as well as an historic decision because in the entirely uncontested evidence in that lawsuit, I took the FBI's integrity and investigation entirely apart, bit by bit, and what integrity it may have had in the investigation, at least for history, no longer exists.

Best wishes,